

IN THE  
**International  
Court of Justice**

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No. 98-1999

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BOTSWANA/NAMIBIA  
*By Special Agreement*

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**Case Concerning Kasikili/Sedudu Island**

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**BACKGROUND GUIDE**

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**THE MATERIAL FACTS**

When United Kingdom and Germany signed the Heligoland-Zanzibar Treaty, also referred to as the Anglo-German of 1890, they roughly delineated colonial territory and spheres of interest in Africa. In doing so, the treaty, like many others of the period, set a variety of arbitrary borders with limited cultural or national significance. Nevertheless, the border formed between Botswana and Namibia remained. However, a troublesome passage of the treaty was unclear about the status of a small island in the Chobe River. The island is alternatively called Kasikili by the Namibians and Sedudu by the Motswana people. (Note: Motswana is the singular form of Botswana, rather than the expected Botswanan.)

After a joint team of experts contracted by both Botswana and Namibia were unable to reach a conclusion on the issue of ownership, both states consented to a joint agreement to

submit the case to the International Court of Justice.

It is worth noting that the island in question has an area of approximately 5 square kilometers, has no permanent population and is submerged by floods during the rainy season.

### **THE LEGAL FACTS**

Both states have consented to the jurisdiction of the ICJ and have agreed that proceedings are not adversarial.

Both states have consented that the primary question is the interpretation of the Anglo-German Agreement of 1890. As such, other treaties or principles of international law are of minimal significance, except to the degree that they clarify the Anglo-German Agreement.

### **THE LEGAL ISSUES**

What is the meaning of the sections of the Anglo-German Agreement of 1890 that relate to the demarcation of the boundary between Botswana and Namibia?

How is the reading of the treaty affected by the context in which it is written?

Does the language of the 1890 compact require translation to a more modern interpretation or is the plain reading sufficient?

### **VALUBALE RESEARCH AIDS**

ICJ website with resources relating to every case, including petitions and responses, press releases and the United Nations Charter: <http://www.icj-cij.org/>

UN Treaty Collection with an expansive database of treaties that includes all multinational treaties filed with the Secretary General: <http://treaties.un.org/home.aspx>

Cornell Law Library's research guide for the ICJ, including resources for pertinent journal articles and books relating to the background of the ICJ as well as current issues, etc.: <http://library.lawschool.cornell.edu/WhatWeDo/ResearchGuides/ICJ.cfm>